

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

David Jannetta, Steven Hoky,
Merlin Adolphson, and Kenneth Daywitt,

File No. 19-cv-2622 (ECT/TNL)

Plaintiffs,

v.

Minnesota Department of Human Services;
Ms. Harpestead, DHS Commissioner;
Marshall Smith; Nancy Johnston; Nicole
Elsen; Jim Berg; Jannine Hebert; MSOP
Media Review Committee Personnel Jane
Doe 1-5 John Doe 1-5; Jaime Houk, MSOP
Clinical Program Manager and Media
Review Committee Chairwoman; and
Jessica Geil, MSOP Legal Director, in their
individual and official capacities,

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Defendants.

Magistrate Judge Tony N. Leung issued a Report and Recommendation on June 1, 2020. ECF No. 29. No party has objected to that Report and Recommendation, and it is therefore reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Report and Recommendation [ECF No. 29] is **ACCEPTED**;
2. Defendants' Motion to Dismiss [ECF No. 16] is **GRANTED IN PART** and

DENIED IN PART as follows:

a. All claims alleged by Plaintiffs against Defendant Minnesota Department of Human Services are **DISMISSED** without prejudice on the basis of sovereign immunity;

b. All claims for monetary relief and all claims brought under the Minnesota Constitution alleged by Plaintiffs against Defendants in their official capacities are **DISMISSED** without prejudice on the basis of sovereign immunity;

c. Plaintiff's claims brought under the Equal Protection Clause against Defendants in their official capacities are **DISMISSED WITH PREJUDICE**;

d. All claims related to the discontinuation of cable television alleged by Plaintiffs against Defendants in their official capacities are **DISMISSED WITH PREJUDICE**;

e. All claims alleged by Plaintiffs against Defendants in their individual capacities are **DISMISSED WITH PREJUDICE**;

f. Defendants' motion to dismiss is **DENIED** with respect to the First and Fourth Amendment claims for prospective injunctive relief alleged by Plaintiffs against Defendants in their official capacities insofar as those claims relate to Minnesota Sex Offender Program Policy 420-5230; and

3. Plaintiffs' Motion in Opposition [ECF No. 24] is **DENIED AS MOOT**.

Dated: June 19, 2020

s/ Eric C. Tostrud
Eric C. Tostrud
United States District Court